



Atty. Dkt. No. 089367-0127

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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant: Fumitoshi MIZUTANI et al.
Title: DATA PROCESSING APPARATUS AND DATA PROCESSING METHOD
Appl. No.: 10/827,433
Filing Date: 04/20/2004
Examiner: Srinivasa R. Reddivalam
Art Unit: 2619
Confirmation Number: 2720

INFORMATION DISCLOSURE STATEMENT
UNDER 37 CFR §1.56

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Sir:

Submitted herewith on Form PTO/SB/08 is a listing of documents known to Applicants in order to comply with Applicants' duty of disclosure pursuant to 37 CFR §1.56.

A copy of each non-U.S. patent document and each non-patent document is being submitted to comply with the provisions of 37 CFR §1.97 and §1.98.

The submission of any document herewith, which is not a statutory bar, is not intended as an admission that such document constitutes prior art against the claims of the present application or that such document is considered material to patentability as defined in 37 CFR §1.56(b). Applicants do not waive any rights to take any action which would be appropriate to antedate or otherwise remove as a competent reference any document which is determined to be a *prima facie* art reference against the claims of the present application.

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TIMING OF THE DISCLOSURE

The listed documents are being submitted in compliance with 37 CFR §1.97(d), before payment of the issue fee.

RELEVANCE OF EACH DOCUMENT

The documents listed on the attached PTO/SB/08 were cited as being relevant during the prosecution of the corresponding Japanese application. A partial English translation of the Japanese Office Action of September 16, 2008, follows:

Remarks

(Regarding Claims 1 to 17 (Reason 2)): Cited Examples 1 to 9

The applicant, in the procedural corrections submitted on June 2, 2008, amends the aberration that is to be corrected by the “aberration-correcting optical element” in the inventions according to Claims 1 and 12 of the present application, as well as each of the claims that cites them in this application, to “including astigmatism (taken as the essential aberration in question)”, thereby limiting the constitution.

However, related astigmatism correction means are well known in the art, as described in Cited Examples 7 to 9.

In addition, the applicant, in a written opinion submitted on the same day, has stated, “The aberration-correcting optical element for correcting astigmatism is not disclosed in Cited Examples 1 to 6, and the constitution of the present invention is not achieved, even when the details disclosed in Cited Examples 1 to 6 are combined.”

However, as described above, the “astigmatism” which is the aberration to be corrected, as well as the “astigmatism correction means” which is the specific constitution whereby correction is achieved, were well known at the time the present application was made. Thus, providing a constitution for correcting astigmatism of the type described in citation example 7 to 9 in the optical head devices or production methods thereof described in Cited Examples 1 to 6 would have been readily

envisioned by a practitioner of the art (and the effects thereof would also fall in a scope that could have been predicted by a practitioner of the art). The remaining points may be found in reference to the Notification of Reasons for Rejection.

Consequently, even considering the statements of the Written Opinion and the amendments in the Procedural Amendments described above, a constitution of the type presented in Claims 1 to 17 of the present application would still have been obvious to a practitioner of the art, based on common technical knowledge and the inventions of Cited Examples 1 to 9.

(List of Cited Literature)

1. Japanese Unexamined Patent Application Publication H02-218022
2. Japanese Unexamined Patent Application Publication H06-324281
3. Japanese Unexamined Patent Application Publication 2002-373445
4. Japanese Unexamined Patent Application Publication H11-144294
5. Japanese Unexamined Patent Application Publication H05-241095
6. Japanese Unexamined Patent Application Publication H09-63108
7. Japanese Unexamined Patent Application Publication 2000-40249 (supplemental)
8. Japanese Unexamined Patent Application Publication 2002-133697 (supplemental)
9. Japanese Unexamined Patent Application Publication 2002-342975 (supplemental)

Should there be any disagreement with this final decision, a request for appeal may be submitted to the Patent Office Commissioner (Article 121, Paragraph 1 of the Patent Law) within 30 days from the date of dispatch of the certified copy of this decision (or within 90 days for a foreign applicant).

(In accordance with Article 46, Paragraph 2 of the Administrative Case Litigation law)

Regarding this final decision, an action for revocation may be submitted only for appeal decisions made concerning requests for appeal in regard to this final decision (Article 178, Paragraph 6 of the Patent Law).

Document E1 is a U.S. counterpart of Document E5.

Document E2 is a U.S. counterpart of Document E4.

Document E3 is a U.S. counterpart of Document E7.

Any document listed on the attached PTO/SB/08 was cited as being relevant during the prosecution of the corresponding Japanese application. An English translation of the foreign-language documents is not readily available; however, the absence of a translation or an English-language counterpart document does not relieve the PTO from its duty to consider any submitted document (37 CFR §1.98 and MPEP §609). English language abstracts are attached.

Applicants respectfully request that each listed document be considered by the Examiner and be made of record in the present application and that an initialed copy of Form PTO/SB/08 be returned in accordance with MPEP §609.

STATEMENT

The undersigned hereby states in accordance with 37 CFR §1.97(e)(1) that each item of information contained in this information disclosure statement was first cited in any communication from a foreign patent office in a counterpart foreign application not more than three (3) months prior to filing of this Statement.

The undersigned hereby states in accordance with 37 CFR §1.704(d) that each item of information contained in the information disclosure statement was first cited in any communication from a foreign patent office in a counterpart application and that this communication was not received by any individual designated in 37 CFR §1.56(c) more than thirty days prior to the filing of the information disclosure statement.

FEE

A credit card payment form in the amount of \$180.00 is enclosed in accordance with 37 CFR §1.17(p) to cover the fee associated with an information disclosure statement under 37 CFR §1.97(d) in the amount of \$180.00.

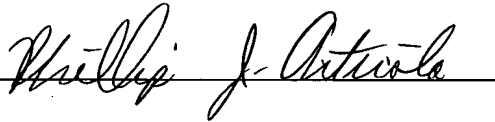
The Commissioner is hereby authorized to charge any additional fees which may be required regarding this submission under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 19-0741. Should no proper payment be enclosed herewith, as by the credit card payment form being unsigned, providing incorrect information resulting in a rejected credit card transaction, or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 19-0741.

Respectfully submitted,

Date: October 15, 2008

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